



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/825,992	04/05/2001	Nurhan Pinar Tutuncu	2280.2660	3697

5514 7590 11/20/2001

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

EXAMINER

GOLLAMUDI, SHARMINA S

ART UNIT	PAPER NUMBER
1616	

DATE MAILED: 11/20/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/825,992	TUTUNCU ET AL.
	Examiner Sharmila S. Gollamudi	Art Unit 1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 05 April 2001 .

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-21 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-21 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are objected to by the Examiner.

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____ .
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) Notice of References Cited (PTO-892)

16) Notice of Draftsperson's Patent Drawing Review (PTO-948)

17) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4 .

18) Interview Summary (PTO-413) Paper No(s) _____ .

19) Notice of Informal Patent Application (PTO-152)

20) Other: _____ .

DETAILED ACTION

Claims 1-21 are included in the prosecution of this application.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 99/59427 in combination with Hanke (6231900).

WO 99/59427 discloses a confectionary product for increasing salivation to treat dry mouth (note abstract). The reference discloses minimizing the degradation of acid-sensitive additives by segregating components in the product via agglomeration (pg. 2, lines 1-25). The reference discloses a product containing a salivation agent (acidulant, cooling agent, flavors) and an oral comforting agent (lipids, sugars, sugar alcohols) (note formulation A and B). The acidulant, sugar, and sugar alcohol read on instant claims (pg. 5, lines 3-22). WO 99/59427 discloses the vegetable oils and surfactants as part of the gum base (pg. 8, lines 29-30).

WO 99/59427 does not disclose a separate region for the salivation agent and oral comforting agent. The reference does not teach the method of making a confectionary product with separate regions.

Hanke discloses preparation of a confectionary product to relieve cough (note abstract). Hanke teaches the use of a separate and distinct region for a flavor composition and a cooling composition. The composition contains sweetening agent, acidulant, flavor, and a cooling agent. Hanke discloses the use of a mold in which the respective compositions are placed. (Note example 1)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of WO 99/59427 and Hanke since both teach confectionary products. One would be motivated to do so because WO 99/59427 discloses that the acid component of the invention degrades the additive component, thus using separate regions as suggested by Hanke for the components prevents the degradation of the components.

Further, it would have been obvious to one of ordinary skill in the art at the time the invention was made to manipulate the conditions of the prior art to obtain the best possible results since the prior art provides the general conditions.

Further, in the absence of showing criticality, it is deemed obvious to one of ordinary skill in the art to manipulate Hanke's mold to further contain a ridge. One would be motivated to do so since Hanke teaches a product having separate and distinct regions, thus adding a ridge to the mold would ensure further separation of components.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over WO 99/59427 in combination with Hanke (6231900) in further view of Klacik et al (6099880).

As set forth above, WO 99/59427 and Hanke disclose a confectionary product containing instant agents.

The references do not disclose a mold having a ridge to separate the components.

Klacik et al discloses a patterned candy containing agents such as sugar, sugar alcohol, coconut oil, and flavors. Klacik et al teach the mold having separate region and depositing mixtures in each segment.

It is deemed obvious to one of ordinary skill in the art at the time the invention was made to combine the references since the references teach confectionary products. One would be motivated to do so since WO 99/59427 and Hanke teach separating components in the confectionary product and Klacik et al teach an economical and simple process of separation using a mold having a ridge (col. 1, lines 30-35).

Any inquiry concerning this communication from the examiner should be directed to Sharmila S. Gollamudi whose telephone number is (703) 305-2147. The examiner can be normally reached M-F from 7:30 am to 4:15pm.

If attempts to reach the examiner by the telephone are unsuccessful, the examiner's supervisor, Jose Dees, can be reached at (703) 308-4628. The fax number for this organization where this application or proceeding is assigned is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist, whose telephone number is (703) 308-1235.

JOSE G. DEES
SUPERVISORY PATENT EXAMINER

16/14

64